

REF: ES # 05-002(F)

June 23, 2005

Rachel Marino
Environmental Branch Chief
United States Coast Guard
Civil Engineering Unit Providence
300 Metro Center Blvd.
Warwick, RI 02886

Dear Ms. Marino:

This is in response to the U.S. Coast Guard's June 13, 2005 request to initiate formal consultation for the Town of Stratford, Connecticut's application for a Marine Event Permit for the Short Beach Park fireworks display. This letter serves to acknowledge the request to initiate formal consultation under Section 7 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, et seq.), as well as to provide an amended Biological Opinion. The consultation and the amended Biological Opinion focus on the possible effects on the federally-listed threatened piping plover (*Charadrius melodus*) from the proposed fireworks event. There is no federally-designated critical habitat within the area of the proposed action.

The U.S. Fish and Wildlife Service (Service) reviewed the Town of Stratford's application for a U.S. Coast Guard Marine Event Permit to hold fireworks at Short Beach Park, in Stratford, Connecticut on July 3, 2005, with a rain date of July 5, 2005. The Service has amended the June 24, 1998 Biological Opinion for the Marine Events Permit for Short Beach (Appendix A) in accordance with Section 7 of the Endangered Species Act.

This amended Biological Opinion is based on information provided in your June 13, 2005 letter describing the proposed project and requesting initiation of formal consultation, and the revised spectator management plan provided by the Town of Stratford Recreation Department. It is also based on discussions among Julie Victoria of the Connecticut Department of Environmental Protection (CTDEP), Susi von Oettingen of my staff, and Ms. Patusky, Superintendent of Recreation for the Town of Stratford, as well as documentation provided by the Town of Stratford.

I. CONSULTATION HISTORY

April 4, 2005 – The New England Field Office (NEFO) of the Service received a request for review from the Town of Stratford Recreation Department for a proposed fireworks event at Short Beach, Connecticut.

April 27, 2005 – NEFO letter to the A. Logman, Lieutenant of the U.S. Coast Guard, requesting additional information on measures that will be implemented to protect breeding piping plovers at Short Beach.

May 19, 2005 – Electronic communication from J. Victoria, CTDEP, to S. von Oettingen, NEFO, providing information on a recently-documented pair of piping plovers nesting on Short Beach.

May 25, 2005 - Electronic communication from J. Victoria to S. von Oettingen providing information that the nest on Short Beach was lost following inclement weather.

June 13, 2005 - The U.S. Coast Guard requests initiation of formal consultation on a Marine Event Permit for the July 3, 2005 fireworks event at Short Beach, Stratford, CT.

II. AMENDMENTS TO THE JUNE 24, 1998 BIOLOGICAL OPINION

DESCRIPTION OF THE PROPOSED ACTION

Fireworks event

The following paragraph replaces the Fireworks Event section of the June 24, 1998 Biological Opinion.

The proposed action is the discharge of fireworks at Short Beach Park in Stratford, Connecticut on July 3, 2005 or July 5, 2005 (rain date). Approximately 2,000 shells ranging from 3" to 8" will be detonated, similar to the display of 1997.

Spectator management

The following information, provided by the Town of Stratford, replaces the Spectator Management section of the June 24, 1998 Biological Opinion.

Following is the Spectator Management Plan developed for the Town of Stratford Annual Fireworks Display which occurs on July 3 each year. The rain date is July 5. The Management Plan will go into effect when and if piping plovers or other endangered wildlife species nest within ½ mile or a distance designated by the CT DEP and the Service from the fireworks display launch site.

If piping plovers or endangered roseate terns nest within Short Beach Park, the Town will inform the CTDEP, or the Town will be informed through the monitoring system. In addition, the Service and the U.S. Coast Guard will be informed.

Portions of the beach will be fenced off as necessary to protect the piping plovers. The night of the event, staff will be stationed around the perimeter of the fencing to enforce no trespassing. The parking area near the location will be closed off with staff stationed to enforce no trespassing. The buffer zone will be 100 meters from the nesting area. White fencing will be used for visibility.

Birds will be monitored to assure they have access to the water, especially when large crowds congregate on the beach.

Pets are not allowed in Short Beach Park. This policy will be strictly enforced the night of the event, and publicized prior to the event.

Arrangements will be made with the Service to have qualified monitors observe the piping plovers at Milford Point. The monitors at both locations (Short Beach and Milford Point) will observe the piping plovers the day of the fireworks, the night of the fireworks, and the day after the fireworks. Monitors will be recruited from the Town's Conservation Commission and Department, the local Audubon Societies and qualified Town employees. CTDEP will approve the monitors.

Trash will be removed the day after the event, and will be hand removed by staff without the use of vehicles.

The Conservation Commission and CT DEP will be consulted to provide qualified monitors during the event to collect necessary data.

No beach sweeping will be performed in the area of the piping plover nesting area.

Shell size and loudness will be controlled to prevent disturbance.

RANGEWIDE STATUS OF THE SPECIES

Species description

The following paragraphs and table replace the last paragraph in the Species Description section of the June 24, 1998 Biological Opinion.

Since being listed, the Atlantic Coast population has doubled from approximately 800 pairs to an estimated 1,668 pairs in 2004 (USFWS 2005), while the U.S. portion of the population has more than doubled from approximately 550 pairs to an estimated 1,423 pairs.

The New England Recovery Unit target is a minimum of 625 pairs. In 2003, there were approximately 686 pairs of piping plovers in New England with an average productivity of 1.19 chicks per pair (USFWS 2004). Preliminary data for 2004 indicate that there were 659 pairs of plovers in New England with an average productivity of ± 1.33 chicks per pair (USFWS 2005). Although the population goal for the New England Recovery Unit has been met, the average productivity has declined in recent years and is now below the 1.5 chicks/pair threshold needed to maintain a secure population.

Seven non-jeopardy formal consultations have been written for projects within the New England Recovery Unit. Most of the consultations were with the U.S. Coast Guard for Marine Event Permits for fireworks events in coastal areas of Connecticut and Massachusetts (Table 1). One consultation was written for the U.S. Army Corps of Engineers for maintenance dredging and disposal of dredged material on plover habitat. Allowable incidental take was rarely reached and never exceeded. An emergency consultation addressed the effects from oil spill and clean-up response activities in Buzzards Bay, Massachusetts and identified lost productivity, although there was no evidence of direct mortality of eggs, chicks or adults.

Table 1. Previous biological opinions completed for piping plovers in New England

Year	Project	Incidental Take		Project Completed
		Amount/Extent of Take	Documented	
1997	Fireworks (Connecticut)	4 pair of plovers and their broods/Harassment	No mortality or loss of productivity	Yes
1997	Fireworks (Massachusetts)	2 pair of plovers/Harassment	No mortality or loss of productivity	Yes
1999	Beach nourishment/dredging (Maine)	2 pair no productivity/harassment and mortality of young for the life of the project	1 pair 2002, no young, 1 pair 2003, 1 young	Yes, effects are ongoing
2000	Fireworks (Massachusetts)	1 egg /Mortality 4 broods/Harassment	No mortality or loss of productivity	Yes
2003	Fireworks (Connecticut)	2 pair of plovers/Harassment	No plovers present during event	Yes
2004	Oil Spill Response (Massachusetts)	4 pair lost or delayed productivity, unquantifiable take due to harassment	Harassment observed, loss of productivity unknown	Yes, Emergency Consultation
2005	Fireworks (Massachusetts)	2 pair of plovers/ Harassment	Loss of productivity/ harassment of young chicks	No

ENVIRONMENTAL BASELINE

Status of the piping plover at Short Beach Park and Milford Point

The following paragraph replaces the first paragraph in the Status section of the June 24, 1998 Biological Opinion.

Short Beach Park is owned and managed by the Town of Stratford and is used as a pedestrian recreational area. Piping plovers have been documented at this site since 1986 with 0 to 3 pair using the beach annually. Productivity has been variable. In April of 2005, one pair nested and laid eggs. The nest was lost during a May storm and the pair has not relocated at Short Beach as of the date of this document. There is still a possibility that the pair, or another pair, will return and nest prior to July 3.

<u>Year</u>	<u>Productivity</u>
2004	1 pair lost one nest
2003	1 pair fledged 0 chicks
2002	0 pair
2001	0 pair
2000	0 pair
1999	0 pair
1998	0 pair
1997	1 pair fledged 1 chick
1996	1 pair fledged 1 chick
1995	1 pair fledged 4 chicks
1994	1 pair fledged 0 chicks
1993	1 pair fledged 0 chicks
1992	2 pair fledged 3 chicks
1991	1 pair fledged 4 chicks
1990	2 pair fledged 7 chicks
1989	3 pair fledged 6 chicks.

The following paragraphs replace the fourth paragraph in this Section.

Milford Point is under multiple ownerships. Approximately 11 acres (Smith Point) are owned by the Service and managed as the Stewart B. McKinney National Wildlife Refuge. The State of Connecticut owns approximately eight acres and leases this land to the Connecticut Audubon Coastal Center at Milford Point. The remaining eight acres of Milford Point are privately owned. Generally, two to five pair of piping plovers nest on Milford Point with variable productivity:

<u>Year</u>	<u>Productivity</u>
2005	2 pair and 2 nests with 4 eggs each, expected to hatch prior to July 1
2004	3 pair fledge 6 chicks
2003	8 pair fledged 5 chicks
2002	5 pair fledged 10 chicks
2001	6 pair fledged 7 chicks
2000	4 pair fledged 4 chicks
1999	3 pair fledge 4 chicks
1998	3 pair fledged 3 chicks
1997	5 pair fledged 3 chicks
1996	2 pair fledged 3 chicks
1995	3 pair fledged 2 chicks
1994	4 pair fledged 3 chicks

<u>Year</u>	<u>Productivity</u>
1993	3 pair fledged 2 chicks
1992	5 pair fledged 2 chicks
1991	4 pair fledged 2 chicks
1990	8 pair fledged 9 chicks
1989	4 pair fledged 8 chicks.

Action Area

No changes to this Section.

Effects of the Action

No changes to this Section.

Cumulative Effects

No changes to this Section.

CONCLUSION

The following paragraph replaces the Conclusion section of the June 24, 1998 Biological Opinion.

After reviewing the current status of the Atlantic Coast piping plover in the New England recovery unit as well as throughout the rest of its range, the environmental baseline for the action area, the effects of the proposed fireworks event and the cumulative effects, it is the Service's Biological Opinion that the July 3, 2005 fireworks event as proposed is not likely to jeopardize the continued existence of the Atlantic Coast piping plover population or the New England recovery unit. The Service has based this determination on the relatively few numbers of plovers (between four and six adults, and up to eight chicks) expected to be adversely affected by the fireworks with respect to the large number of pairs found in the Recovery Unit (an estimated 659 pairs for 2004). If the pair returns to re-nest at Short Beach, the nest would be located within ½ mile of the display. Effects are primarily in the form of disturbance to natural feeding and breeding behavior. No direct mortality of any of the adult plovers is anticipated. This conclusion is based on 1) the lack of plover mortality observed during past fireworks events when piping plovers nested at Short Beach, 2) the fact that there is a distance of ¾ mile between the fireworks discharge zone and breeding plovers at Milford Point, and 3) the spectator management at Milford Point. No critical habitat has been designated for this species; therefore, none will be affected.

III. INCIDENTAL TAKE STATEMENT

No changes to this Section.

AMOUNT AND EXTENT OF TAKE

The following paragraphs replace the Amount and Extent of Take section of the June 24, 1998 Biological Opinion.

The Service anticipates that incidental take of the federally-threatened piping plover is likely to occur during the fireworks event primarily in the form of harassment of up to four pair of piping plovers. The distance between the fireworks event and piping plovers at Milford Point is approximately $\frac{3}{4}$ mile. The event at Short Beach Park would be within 1,000 feet from traditional plover nesting sites.

Plovers at Short Beach Park may exhibit more alarm behavior and have less opportunity to feed throughout the evening because of loud reports associated with the fireworks. If plovers are incubating eggs during the event, the explosions may cause adults to leave the nest for a short time. Depending on where a nest is established on Short Beach Park (i.e., near a food or restroom facility), there is a possibility of egg mortality if plovers abandon their nest for any extended period of time during the fireworks event.

The risk of temporary or permanent nest or brood abandonment at Milford Point is low due to the proposed spectator management. However, the disruption of normal behavior, including feeding, resting and/or brooding may result from increased human presence and activity at Milford Point.

EFFECT OF THE TAKE

No changes to this Section.

REASONABLE AND PRUDENT MEASURES TO MINIMIZE TAKE

No changes to this Section.

TERMS AND CONDITIONS

No changes to this Section.

REPORTING AND MONITORING REQUIREMENTS

The address in the Reporting and Monitoring Requirements section of the June 24, 1998 Biological Opinion has been replaced with:

Michael J. Bartlett, Supervisor
New England Field Office
U.S. Fish and Wildlife Service
70 Commercial Street, Suite 300
Concord, NH 03301-4986
(603) 223-2541

CONSERVATION RECOMMENDATIONS

No changes to this Section.

REINITIATION OF FORMAL CONSULTATION

No changes to this Section.

This concludes our amendments to the June 24, 1998 Biological Opinion and Incidental Take Statement. The Service appreciates the opportunity to work with the U.S. Coast Guard in fulfilling our mutual responsibilities under the Endangered Species Act. Please contact Susi von Oettingen of this office at (603) 223-2541, extension 22, if you have any questions or require additional information.

Sincerely yours,

Michael J. Bartlett
Supervisor
New England Field Office

CC: Reading file
J. Victoria, CTDEP
L. Dlhopsky, USCG
Laury Zicari, NYFO
ES: SvonOettingen:6-23-05:603-223-2541

LITERATURE CITED

The following literature citations have been added to the Literature Cited section of the June 24, 1998 Biological Opinion.

U.S. Fish and Wildlife Service. 2004. 2002-2003 Status Update: U.S. Atlantic Coast piping plover population. Sudbury, Massachusetts. 9 pp. <http://pipingplover.fws.gov/status/>

U.S. Fish and Wildlife Service. 2005. Preliminary 2004 Atlantic Coast Piping Plover Abundance and Productivity Estimates. Sudbury, Massachusetts,
<http://www.fws.gov/northeast/pipingplover/status/index.html>